

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No.1883 of 2018

ORDER:

Heard learned counsel for the petitioner-Housing Welfare Association with name Pavan Enclave, learned Government Pleader for Municipal Administration for respondent No.1 and Sri Madhu Chatla, learned Standing Counsel, appearing for respondent Nos.2 and 3 before ordering notice to the unofficial respondent No.4 and perused the prayer in the writ petition with supporting affidavit and other material on record and the counter affidavit on behalf of respondent Nos.2 and 3 and the reply affidavit of the petitioner.

2. The prayer in the writ petition reads as follows:

“.....to issue a Writ, Order or Direction more particularly one in the nature of Writ of Mandamus,

a) To direct the 2nd Respondent to issue Regularization Orders for Plot Nos.95 to 147 forming part of layout named as 'Pavan Enclave' in Sy.Nos.173 & 175 of Machabolarum Village, Kompally road, Alwal Municipality, in accordance with G.O.Ms.No.151, dt.02.11.2015, and the consequential amendments, if any, by considering the report submitted by the 3rd Respondent vide Letter No.G/111/NZ/GHMC/2017/571 dt.21.09.2017.

b) And, to pass such other order(s) as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

3. As per the contention of the learned counsel for the petitioner vis-à-vis the writ petition supporting affidavit to the prayer supra, that

the petitioner Association formed by the owners of plot Nos.1 to 148 in the layout named 'Pavan Enclave' covering an extent of Ac.13.05 gts in Sy.Nos.173 and 175 of Machabolarum Village, Kompally Road, Alwal Municipality limits, the said layout was formed by the original pattadars and sold the developed plots to various persons by registered documents up to 2003 and there are subsequent third party alienations, if any, in respect of some of them, respondent No.4 developed certain plots into layout. The owners of plot Nos.10 to 94 at their plots regularised under the elsewhere LRS Scheme covered by G.O.Ms.No.902, dated 13.12.2007, with ULC (Urban Land Ceiling) Clearance Certificate. Respondent No.4 filed W.P.No.3301 of 2009 as President of the Welfare Association, where there is a direction to the Special Officer and Competent Authority of ULC to issue clearance certificate in respect of the entire layout and the present writ petitioner was one of the petitioners in that W.P.No.3301 of 2009 and as such there is no further obtaining of the ULC Clearance Certificate as ULC clearance earlier obtained pursuant to the writ petition order submitted his suffice from which regularisation of plot Nos.10 to 94 already done way back during 2007-2008, leave about the ULC Act was repealed by G.O.Ms.No.747, dated 18.06.2008, with effect from 27.08.2008. Insofar as the regularisation of the other plot owners presently covered in the writ petition prayer for plot Nos.95 to 148 concerned, it is pursuant to the Government LRS Scheme second time brought into vogue by G.O.Ms.No.151, dated 02.11.2015, they applied, was not considered based on a fake complaint by respondent

No.4 as if the layout is not genuine. The writ petitioner's association against complaint of respondent No.4, dated 15.12.2016, made a representation, dated 07.02.2017, and there was an enquiry conducted by the Commissioner, Town Planning Section of GHMC including in reference to the objections raised by respondent No.4 and submitted the report to the Principal Secretary, Municipal Administration (respondent No.1) on 21.09.2017 which clarifies that there is no veracity or legitimacy to the complaint by respondent No.4 insofar as plot Nos.95 to 147 also at par with plot Nos.10 of 94 already regularised and building permissions were granted by GHMC and that was subject matter of the direction in W.P.No.3301 of 2009 for ULC Clearance also and there is thereby no any fake layout developments insofar as the present plot owners 95 to 147/148 concerned. It is a further submission that there is a registered gift deed document bearing No.1569 of 2017, dated 29.04.2017, in respect of the roads and open space required for the layout to consider the pending LRS applications. It is thereby sought for direction for regularisation of the plot Nos.95 to 148 by extending the benefit of G.O.Ms.No.151, dated 02.11.2015 in relation to them. The copy of the registered gift deed referred supra, dated 29.04.2017, is also filed and perused.

4. G.O.Ms.No.151, dated 02.11.2015, under which the LRS Scheme benefit sought speaks specifically from Section 2 on applicability speaks with reference to Section 58 of Telangana Urban Areas (Development) Act, 1975, Section 585 of Greater Hyderabad

Municipal Corporation Act, 1955, Section 44 of Town Planning Act, 1920, Section 326 of Municipalities Act, 1965 and Section 56 of Hyderabad Metropolitan Development Authority Act, 2008, specifically in saying these rules and conditions shall be applicable to all existing unapproved sub division of plots, existing unapproved layout or ventures promoted by land owners/private developers/firms/companies/property developers/Societies where the plots have been sold by registered sale deeds on or before 28.10.2015. Undisputedly, the beneficiaries who applied for plot Nos.95 to 148 got the registered sale deeds prior to the cut of date 28.10.2015, leave about any further alienations by anybody thereafter. It is very clear therefrom of it satisfies the required norm for applicability of the scheme.

5. Mainly coming to the contention in the counter affidavit of respondent Nos.2 and 3 concerned, it is one of the contentions of the documents of the applicants plots not tallying with the layout pattern referred in W.P.No.3301 of 2009, dated 19.02.2009, and there were subsequent registrations by some of the plot owners among plot Nos.95 to 148 including in the years 2016 and 2017, applicants are not present owners thereby. In this regard, there is no such rider in the applicability of the scheme covered by G.O. in question as referred surpa, there is no prohibition of alienation by the owner of the property having registered document by 28.10.2015 pending LRS applications, but for at best for the respondents in considering the LRS

application pending in the name of the person who applied as on the cut of date 02.11.2015 of the benefit of the G.O. and not to include the name of the subsequent alinee so that the subsequent alinee if at all later applied for change of mutation, beyond that there is no force in the said contention of the respondents. Coming to the other objection is regarding the registered gift for the roads and open spaces as referred supra there is a registered document covered and once such is the case, it is clear about the compliance with the requirements.

6. Having regard to the above, the writ petition is allowed directing the respondents to consider the benefit of the LRS Scheme to the beneficiaries of the welfare association of the petitioner in relation to the plot Nos.95 to 148 to issue the same in the name of the persons in whose name the respective sale deeds stand prior to 28.10.2015 and those in whose names the property stands as on the date of applications in availing the benefit of the scheme cut of date 02.11.2015 till 31.01.2018 and by virtue of the order of this Court, it is the benefit extended because the writ petition is filed before the cut of date.

Miscellaneous petitions pending, if any, shall stand closed. No costs.

Dr. B. SIVA SANKARA RAO, J

2nd February 2018

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